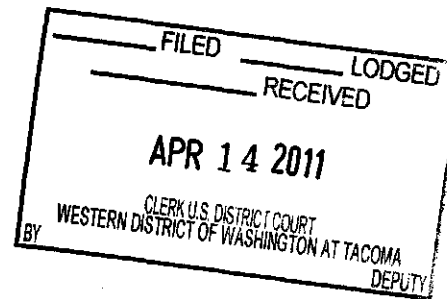


HONORABLE RONALD B. LEIGHTON



10-CV-05879-ORD

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MICHAEL JERRI JAMES,

Petitioner/Defendant,

v.

UNITED STATES OF AMERICA,

Respondent/Plaintiff.

CASE NO. C10-5879RBL

CR08-5264RBL

ORDER

THIS MATTER comes on before the above-entitled Court upon Defendant's Motion to Compel Prior Counsel to Supply Defendant's Case File and Second Motion for an Extension of Time to File an Amended § 2255 Motion [Dkt. #10]. Having considered the entirety of the records and file herein, the Court finds and rules as follows:

Defendant seeks an order compelling his prior counsel to provide Defendant his case file from his criminal case in order to prepare an amended § 2255 motion. He also seeks another extension to file his amended § 2255 motion. The Court notes that Defendant has filed a Notice of Appeal of the Judgment revoking his supervised release. The Ninth Circuit has allowed his counsel to withdraw and appointed new counsel to prosecute the appeal. The § 2255 motion

1 challenges the imposition of a term of supervised release that ultimately was revoked and is the  
2 subject of his current appeal.

3 Based on concepts of judicial economy and due to concerns about the risk of inconsistent  
4 decisions, this Court should not entertain a collateral attack on a judgment while a direct appeal  
5 is pending absent "extraordinary circumstances" not present here. *United States v. Deeb*, 944  
6 F.2d 545, 548 (9<sup>th</sup> Cir. 1991); *United States v. Taylor*, 648 F.2d 565, 572 (9<sup>th</sup> Cir. 1981).  
7 Therefore, Defendant's § 2255 Motion is hereby **STAYED** pending conclusion of his direct  
8 appeal of the Judgment revoking his supervised release.

9 Because the Defendant's § 2255 Motion is no longer pending, he does not have a need  
10 for his case file from his prior attorney. The Ninth Circuit has appointed new counsel for the  
11 appeal who may, if needed, obtain the file from prior counsel. If so, the Defendant has access to  
12 the file without the necessity of this Court directing prior counsel to provide it directly to the  
13 Defendant.

14 Defendant's Motion to Compel Prior Counsel to Supply Defendant's Case File is  
15 **DENIED** and Defendant's Second Motion for an Extension of Time to File an Amended § 2255  
16 Motion is **DENIED** as **MOOT**. Defendant's § 2255 Motion is **STAYED** pending conclusion of  
17 his direct appeal.

18 **IT IS SO ORDERED.**

19 The Clerk shall send uncertified copies of this order to all counsel of record, and to any  
20 party appearing pro se.

21 Dated this 14 day of April, 2011.

22  
23   
24 Ronald B. Leighton  
United States District Judge